

National Republican Senatorial Committee

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JOHN D. HEUBUSCH
EXECUTIVE DIRECTOR

October 21, 1996

VIA HAND DELIVERY

MUR 4505

Honorable Lee Ann Elliott
Chairman
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Amendment to Complaint Against the Democratic National
Committee and the "Torricelli for U.S. Senate/Bob
Torricelli for New Jersey" Committee

Dear Madam Chairman:

On October 10, 1996, I filed with the Federal Election Commission (the "Commission"), pursuant to the authority found at 2 U.S.C. §437g(a)(4)(A), a formal complaint against the above cited Respondents. Pursuant to 11 C.F.R. §111.4 of the Commission's Regulations, I herewith amend that complaint by adding: (1) a new allegation against the AFL-CIO/COPE committee regarding the airing of another so-called "issue" advertisement in support of Democrat Senate nominee Bob Torricelli and (2) additional information for the Commission's review regarding the coordination of a common media strategy by Respondents with respect to the airing of so-called "issue" advertisements by Respondent DNC in support of Democrat Senate nominee Bob Torricelli.

(1) It has come to my attention that, on or about October 17, 1996, the AFL-CIO/COPE committee began to air a political advertisement in New Jersey which, upon information and belief, is referred to as "Medicare Is Issue: Zimmer/Torricelli" by Respondent AFL-CIO/COPE. A "story-board" for this advertisement is attached and made part of this complaint as "Exhibit 7." This advertisement is currently being aired on station KYW-TV in Philadelphia, whose signal reaches all of southern New Jersey. I ask that the Commission add the AFL-CIO/COPE committee as a formal Respondent to the complaint filed on October 10, 1996 with respect to the financing of the advertisement referred to as "Medicare Is Issue: Zimmer/Torricelli."

RONALD REAGAN REPUBLICAN CENTER
425 SECOND STREET, N.E. • WASHINGTON, D.C. 20002 • (202) 675-6000

PAID FOR AND AUTHORIZED BY THE NATIONAL REPUBLICAN SENATORIAL COMMITTEE.

This advertisement contains a clear "electioneering message", as that term is defined by the Commission, by referring with specificity in the text of the advertisement to "voter information", "the candidates" and their votes in Congress on the Medicare funding issue. This advertisement also clearly identifies, in the text of the advertisement, two federal candidates by name, Congressmen Torricelli and Zimmer, both of whom are their respective party's nominees for election to the Senate in the November 5, 1996 general election. Having employed an "electioneering message" and having clearly identified two federal candidates in the text of the advertisement, Respondent AFL-CIO/COPE committee must deem, by operation of law, the full cost of preparing and airing this advertisement, to be a "contribution" to the Torricelli committee on behalf of the Respondent AFL-CIO/COPE committee. The legal analysis in support of this assertion can be found in the above referenced complaint of October 10, 1996.

However, upon information and belief, Respondent AFL-CIO/COPE committee mistakenly deems this advertisement to be an exempt "issue" or "legislative advocacy" advertisement. Upon information and belief, Respondent AFL-CIO/COPE committee is paying for the costs of preparation and air time using non-federal union treasury funds. Utilization of any non-federal funds to pay any of the costs associated with this advertisement is prohibited by the Act at 2 U.S.C. §441b. In addition, the disclaimer used by Respondent AFL-CIO/COPE committee in this advertisement does not meet the Commission's standard as set forth at 11 C.F.R. §110.11(a)(1).

(2) As the Commission will recall, the complaint filed on October 10, 1996, alleged a series of specific violations of the Federal Election Campaign Act of 1971, as amended (the "Act") with respect to the financing of television advertisements by the Respondent DNC in connection with the general election campaign of Congressman Bob Torricelli, the Democrat nominee for election to the United States Senate from New Jersey. That complaint alleged violations of 2 U.S.C. §§441a(a)(2), 441a(d), 441b(a), 441d, 434b and 11 C.F.R. §110.11(a)(2) with respect to one or more television advertisements, mistakenly deemed to be exempt "issue" or "legislative advocacy" advertisements by the Respondents.

These so-called "issue" or "legislative advocacy" advertisements continue to be aired in New Jersey by Respondents DNC. Yesterday, the New York Times reported, in a news article headed "TV Stations' Logs Show a Spending Gap in Ads for N.J. Senate Race", that the Respondents are coordinating their media strategy so as to have the Respondent DNC place so-called "issue" advertising in lieu of political advertising prepared and aired by the Respondent Torricelli committee so as to allow "the Torricelli campaign to save its resources for later in the contest."

In addition, the New York Times article uses the advertising logs of the six major New York City television stations to show that the media strategy of the Respondents was carefully coordinated through their common media buyer, Barbara Abar of Abar Hutton media in Alexandria, Virginia. A copy of the New York Times article of October 20, 1996 is

attached, as "Exhibit 8", for your review. I specifically ask that it be made a part of the Commission's review of this matter.

Because time is of the essence and because the violations of the Act complained of on October 10, 1996 obviously continue, I implore the Commission to immediately initiate an investigation of this complaint and order the Respondents to withdraw these advertisements and terminate all present and future Television "buys" in support of these advertisements.

Respectfully,



Craig M. Entle, Esq.

General Counsel

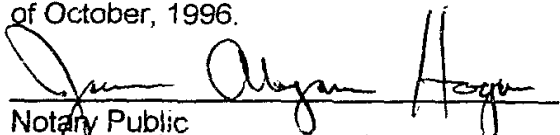
National Republican Senatorial
Committee

425 Second Street, N.E.

Washington, D.C. 20002

Exhibits Attached

Subscribed and sworn to
before me this 22nd day
of October, 1996.



Notary Public

My Commission expires 11-30-2000



**VIDEO MONITORING
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330 WEST 42ND STREET,
NEW YORK, NEW YORK 10036
(212) 736-2010

PRODUCT: AFL-CIO
LENGTH: :30
MARKET: Philadelphia
PROGRAM:
CODE #: 9610-4007
TITLE: Medicare Is Issue: Zimmer/ Torricelli

STATION: KYW
DATE: 10/17/96
TIME: 10:20 AM



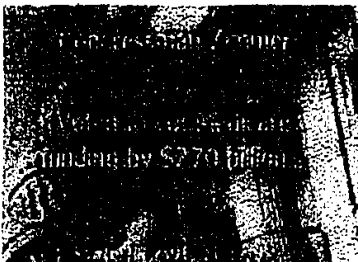
MALE ANNCR: What's important to America's families?



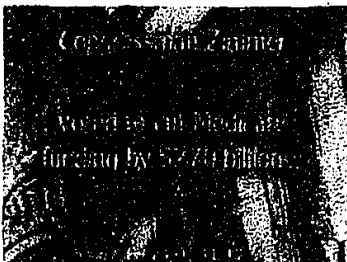
WOMAN: I'm very concerned about Medicare.



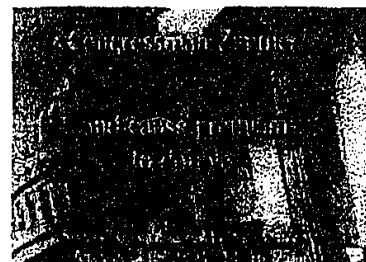
I just can't afford to pay anymore. (SPX: TYPEWRITER EFFECT AS WORDS APPEAR ON THE SCREEN)



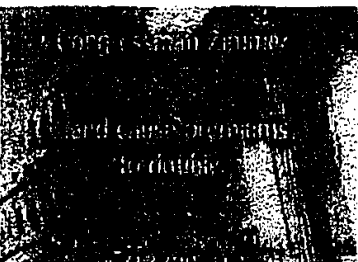
ANNCR: And where do the candidates stand?



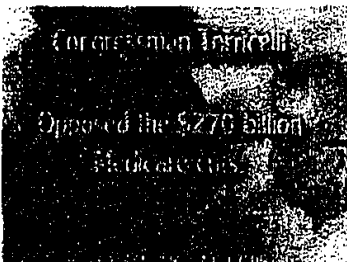
Congressman Dick Zimmer voted to cut Medicare funding by \$270 billion.



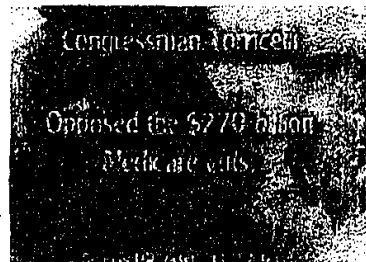
According to the Congressional Budget Office, the plan would've caused



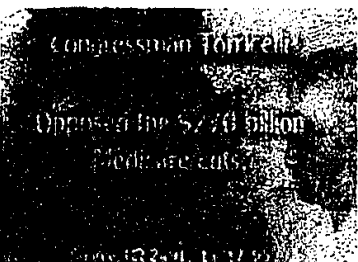
Medicare premiums to double.



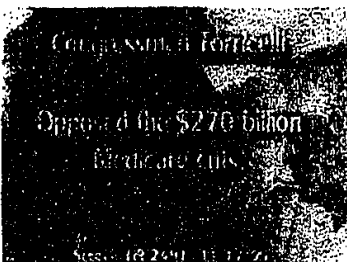
Congressman Bob Torricelli



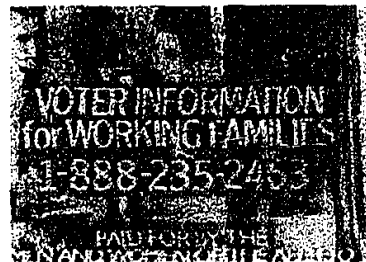
opposed



those



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TV Stations' Logs Show a Spending Gap in Ads for N.J. Senate Race

By ALAN FINDER

In the first six weeks of the campaign for an open United States Senate seat in New Jersey, Representative Robert G. Torricelli significantly outspent his rival, Representative Richard A. Zimmer, in crucial television advertising.

Mr. Torricelli, a Democrat, and the national Democratic Party spent nearly twice as much as Mr. Zimmer, a Republican, and the Republican party on television commercials broadcast between Labor Day and early last week, an examination of political advertising logs at each of New York City's

six major commercial television stations showed.

If he had not received help from the Republican National Committee, Mr. Zimmer would have been outspent by Mr. Torricelli by a ratio of more than 4-to-1.

In all, Mr. Torricelli and the Democrats broadcast \$3.4 million worth of television ads in New York in the first six weeks, and the Republicans spent \$1.9 million.

Despite spending more than \$5 million on New York television — and viewer complaints about the content and quantity of the ads — both candidates are about to dramati-

cally increase their ad purchases.

That is true, as well, in Philadelphia, where statewide candidates in New Jersey must also advertise, since New Jersey does not have its own major commercial stations.

In Philadelphia, Mr. Torricelli also appeared to be outspending Mr. Zimmer considerably, according to records at the four major network affiliates there.

It is not known whether Mr. Zimmer will be able to close the gap by making huge purchases of commercial time during the last 16 days of the campaign. Mr. Zimmer has typically bought time only a few days in

advance during the contest, both to hide his advertising strategies from his opponent, and because he has struggled to catch up with Mr. Torricelli's early lead in fundraising.

Mr. Zimmer's campaign reported last week that, as of Oct. 1, it had \$3.7 million on hand; most of that either has been spent, or will be spent, on television advertising.

While Mr. Zimmer's plans are unknown, it is clear that the Torricelli campaign has sharply increased its spending on television ads for the closing weeks of the campaign —

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NEW JERSEY

In TV Ads for Senate Race, a Spending Gap

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a disconcerting thought, no doubt, to television viewers who have already begun complaining that both candidates' commercials have been too negative, too nasty and too omnipresent.

Mr. Torricelli has contracted to spend more than \$1.8 million for ads on New York's two top-rated stations, WNBC-TV (Channel 4) and WABC-TV (Channel 7), during the last three weeks of the Senate campaign. He had already spent about \$1.5 million on ads broadcast by the two stations during the first six weeks of the contest, according to the stations' records.

Altogether, Mr. Torricelli will spend at least \$4.6 million in commercials on New York television stations by the end of the race, and more than \$1.9 million on Philadelphia stations, for combined television spending of more than \$6.5 million, the logs show. And that does not count additional spending for commercials on radio and cable television stations, nor the \$750,000 the Democratic National Committee spent on his behalf.

Mr. Zimmer has spent less than \$2 million on the 10 major stations in both cities so far, of which \$620,000 was in Philadelphia. The Republican National Committee alone spent nearly \$1.4 million for ads attacking Mr. Torricelli on New York stations. Some Republican consultants anticipate a big surge in spending by the Republican candidate before Election Day on Nov. 5.

"My guess is that the Zimmer people have been somewhat parsimonious in the early days, so that they can spend more in the closing weeks of the campaign," said Stephen A. Salmore, a professor of political science at the Eagleton Institute of Politics at Rutgers University and a Republican campaign consultant.

Whether the stepped-up advertising drive will actually aid either candidate in the tight contest is also in question.

Gov. Christine Todd Whitman and former Gov. Tom Kean have warned both candidates that the strident tone of their commercials may simply turn off voters. In interviews Friday in a diner in Edison, N.J., several people said they were thinking of not voting for either candidate

because of the contest's ugly tone.

But political consultants believe that saturating television airwaves in the weeks before a statewide election is the only way to grab the voters' attention, particularly for candidates like Mr. Zimmer and Mr. Torricelli, who are not known throughout New Jersey.

"You want the average person to see an ad 10 times," Mr. Salmore said. "You've really got to see it for it to sink in."

The Zimmer and Torricelli campaigns appear to concur.

But both candidates noted last week the steep cost of television advertising in New York and Philadelphia, two of the nation's five biggest television markets. They are also paying to reach a vast broadcast audience in which the majority of viewers do not even live in New Jersey.

This week, for example, Mr. Torricelli has purchased time for a 30-

late-night talk shows. They have advertised, too, on prime time, but more selectively, because of the high cost.

In the final weeks before the election, the Torricelli campaign appears to have increased its purchasing of prime-time ads.

Some of the New York stations' logs also provided telling evidence of the connection between the advertising purchased by the candidates and commercials paid by their national committees, which under Federal election rules are supposed to be independent of the candidates.

The political parties' ads are officially labeled "issues oriented," and under the Federal rules they cannot openly advocate for the election or defeat of a candidate. What they do, of course, is advocate indirectly for the defeat of an opponent by sharply attacking him.

The pretense of independence was undercut by the political advertising logs at WABC-TV.

The Torricelli campaign originally contracted to buy \$288,400 in ads on Channel 7 for the week of Oct. 7 to Oct. 14. The campaign later canceled \$215,000 of those ads, many of them expensive commercials that had been scheduled to be broadcast during prime-time shows like "20/20," the ABC Sunday Night Movie and the network's block of situation comedies on Tuesday.

About the same time that the Torricelli campaign dropped these ads, the Democratic National Committee stepped in to help. The committee bought \$157,600 in commercial time on WABC-TV for the same week in October, to broadcast the supposedly independent "Issues" ads. Most of the Democrats' purchases involved time on the very same prime-time shows that the Torricelli campaign had just canceled. That allowed the Torricelli campaign to save its resources for later in the contest.

Further indicating the Torricelli campaign's connection with the Democratic Party is that the same media buyer purchased the ads for both the campaign and the Democratic National Committee: Barbara Abar of Abar Hutton Media in Alexandria, Va. Ms. Abar did not return several messages left on Friday afternoon seeking comment.

**Since Labor Day,
Torricelli has spent
nearly twice as much
as Zimmer on ads.**

second ad during the popular NBC situation comedy "Friends." It will cost \$40,000. Next week, he will spend \$58,000 to broadcast a 30-second spot during "Seinfeld."

His commercials during the "Today" show cost \$1,500 each. Mr. Torricelli has also bought 30 seconds for an ad during "Lois and Clark" on WABC-TV tonight for \$25,000. Commercials that will appear daily this week at the end of Channel 7's 11 P.M. news show will cost \$7,500 each.

Both candidates have been purchasing time almost around the clock. Since early this month, each has broadcast commercials during the morning news shows, occasionally during midday talk shows and soap operas, and then again during the early evening news, the television magazine shows that are broadcast between 7 P.M. and 8 P.M. and during the late local news shows and